

1  
2  
3  
4  
5  
6  
7  
8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
10

11 SERGIO ALEJANDRO RUIZ,  
12  
13 vs. Plaintiff,  
14 C. ROJAS,  
15 Defendant.

CASE NO. 07cv1861-LAB (POR)

**ORDER GRANTING EXTENSION  
OF TIME TO FILE AMENDED  
COMPLAINT**

16 On December 5, 2007, the Court issued an order granting Plaintiff leave to proceed  
17 *in forma pauperis*, conducting the screening required under 28 U.S.C. §§ 1915(e) and  
18 1915A, and dismissing his complaint. Plaintiff was granted 45 days from the date the order  
19 was filed in which to file an Amended Complaint.

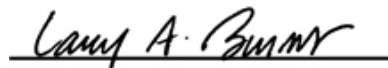
20 On January 24, 2008, Plaintiff moved *ex parte* for an extension of time to file his  
21 Amended Complaint, because he had not received the Court's order in a timely fashion. It  
22 appears the order was mailed to Plaintiff approximately 18 days after it was issued. Finding  
23 good cause, the Court **GRANTS** Plaintiff's request. He may file an Amended Complaint no  
24 later than **28 calendar days** from the date this order is entered.

25 Plaintiff is advised his Amended Complaint must cure the defects identified in the  
26 Court's order of December 5, 2007. The Amended Complaint must be complete in itself  
27 without reference to the superseded pleading. See S.D. Cal. Civ. L. R. 15.1. Defendants  
28 not named and all claims not re-alleged in the Amended Complaint will be deemed to have

1 been waived. See *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987). Further, if Plaintiff's  
2 Amended Complaint fails to state a claim upon which relief may be granted, it may be  
3 dismissed without further leave to amend and may hereafter be counted as a "strike" under  
4 28 U.S.C. § 1915(g). See *McHenry v. Renne*, 84 F.3d 1172, 1177–79 (9th Cir. 1996).

5  
6 **IT IS SO ORDERED.**

7 DATED: January 31, 2008

8 

9 **HONORABLE LARRY ALAN BURNS**  
10 United States District Judge  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28